amended by #3-S 1972

ORDINANCE NO. 2

Series, 1960

AN ORDINANCE DEFINING CERTAIN NUISANCES; PROVIDING FOR THE ABATEMENT THEREOF; PROVIDING PENALTIES FOR THE CONTINUATION THEREOF; REPEALING ALL PRIOR ORDINANCES OR SECTIONS THEREOF IN CONFLICT HEREWITH; AND DECLARING AN EMERGENCY.

The City of Elgin ordains as follows:

Section 1. Definitions. Except where the context indicates otherwise, the singular number includes the plural and the masculine gender includes the feminine, and the following mean:

(1) Person in charge of property. An agent, occupant, lessee, contract purchaser or person, other than the owner, having possession or control of the property.

(2) Person. A natural person, firm, partnership, association or corporation.

(3) City. The City of Elgin.

(4) Council. The governing body of the city.

Section 2. Attractive Nuisances.

(1) No owner or person in charge of property may permit:

(a) Machinery, equipment or other device on his property which are attractive, dangerous and accessible to children.

(2) This section does not apply to construction projects if adequate safeguards and barriers as required by ordinance are maintained to prevent injury or death to children.

(3) A nuisance as described in this section may be abated as provided in this ordinance.

Section 3. Motor Vehicles and Self-Propelled Machinery.

(1) The accumulation, keeping or storing of any automobile, motor truck, trailer, semi-trailer, motorcycle, any self-propelling vehicle or machine, or farm machinery, or any part or portion of any of the same, for the purpose of wrecking, dismantling, permanently disassembling, or substantially altering the form thereof, upon any street, alley or any public property, or upon any private property, not being confined within a building, or within a solid enclosure, at least six (6) feet in height, when the owner or person in charge thereof is not licensed as defined by the laws of the State of Oregon for the purpose of motor vehicle wrecking, shall constitute a nuisance and shall be abated in the manner hereinafter prescribed.

(2) The keeping or storing of any such automobile, motor truck, trailer, semi-trailer, motorcycle or any other self-propelling vehicle or machine, or farm machinery requiring a motor vehicle license by the State of Oregon, and not having a current vehicle license displayed thereon, shall be deemed prima facie evidence of the accumulation, keeping or storing thereof for the purpose of wrecking, dismantling, permanently disassembling, or substantially altering the form thereof in violation of this Ordinance.

Abatement Procedure

Section 4. Abatement Notice.

(1) Upon determination bythe City Recorder that a nuisance as defined in this or any other ordinance of the city exists, the City Recorder shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate the nuisance.

(2) At the time of posting, the City Recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last known address of the owner or other person.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which or adjacent to which such nuisance exists.

(b) A direction to abate the nuisance within ~~five~~ ten days from the date of the notice, unless otherwise provided in this ordinance.

(c) A description of the nuisance.

(d) A statement that unless such nuisance is removed the city will abate the nuisance and the cost of abatement shall be a lien against the property.

(e) A statement that the owner or person in charge of the property may protest the abatement by giving notice to the city recorder within ~~three~~ ten days from the date of the notice.

(4) Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file with the City Recorder a certificate stating the date and place of such mailing and posting.

(5) An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the posted notice shall be sufficient.

Section 5. Abatement by the Owner.

(1) Within the time allowed by the notice as provided in Section 4, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists.

(2) The owner or person in charge of property protesting that no nuisance in fact exists shall file with the City Recorder a written statement which shall specify the basis for so protesting.

(3) The statement shall be referred to the Council as a part of the Council's regular agenda at the next succeeding meeting. At the time set for the consideration of the abatement, the owner or other person may appear and be heard by the Council and the Council shall thereupon determine whether or not a nuisance in fact exists

and such determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement has been filed.

(4) If the Council determines that a nuisance does in fact exist, the owner or other person shall within five days after the Council determination abate the nuisance.

Section 6. Abatement by the City.

(1) If within the time permitted by this ordinance, the nuisance has not been abated by the owner or person in charge of the property, the City Recorder shall cause the nuisance to be abated.

(2) The officer charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon any property to investigate or cause the removal of such nuisance.

(3) The City Recorder shall keep an accurate record of the expense incurred by the City in abating the nuisance and shall include a charge of 10 per cent of the expense for the administrative overhead.

(4) The total amount of the costs of abatement shall then be assessed to the property.

Section 7. Assessment of Costs.

(1) The City Recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property, a notice stating:

(a) The total amount of the costs of abatement including the administrative overhead.

(b) That the amount as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.

(2) The Council in the regular course of business shall hear and determine the objections to the costs to be assessed.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as determined by the Council shall be made by resolution and shall be entered in the docket of city liens. Upon such entry being made, the total costs of abatement shall be a lien upon the property from which, or adjacent to which, the nuisance was removed or abated.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of 6 per cent a year. Interest shall begin upon the entry of the lien in the lien docket.

(5) An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

Application of Ordinance

Section 8. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is an additional procedure to those provided by other ordinances. The health officer, the chief of the fire department and the city

police officers may proceed summarily to abate a nuisance which unmistakably exists and from which there is imminent danger to human life or property.

Section 9. Penalties. A person violating this ordinance may, upon conviction, be imprisoned for a maximum period of 30 days, or fined a maximum of $300.00 or both.

Section 10. Separate Violations.

(1) A separate offense is committed each day that a violation of this ordinance is permitted or permitted to continue.

(2) The abatement of a nuisance is not a penalty for violating this ordinance, but it is an additional remedy to a penalty imposed for a violation of the ordinance. The imposition of a penalty does not relieve a person of the duty to abate a nuisance.

Section 11. Severability. The sections and subsections of this ordinance are severable. The invalidity of one section or subsection does not affect the validity of the remaining sections or subsections.

Section 12. Repealer. Any ordinance, or any clause, sentence, subdivision or section of any ordinance of the City of Elgion, Union County, Oregon, in conflict with this ordinance is hereby repealed.

Section 13. Inasmuch as the City of Elgin has within its geographical boundary many nuisances, as hereinabove defined and described, which are endangering the life and limb of the children of said City, and in addition is prejudicing the ownership of adjacent properties, as well as the City in general, and inasmuch as it is essential for the health, welfare, peace, and safety of the people of the City of Elgin that this ordinance become effective upon the passage thereof, an emergency is hereby declared to exist and this ordinance shall be in full force and effect upon its passage by a unanimous vote of the members of the Council present at the time of its passage and upon the approval of the Mayor of said City.

PASSED this 13th day of September, 1960.

APPROVED this 13th day of September, 1960.

W F Chandler

Mayor

Attested to and filed this
13th day of September, 1960.

C P Miller

City Recorder